

Message Text

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PAGE 01 PARIS 37356 01 OF 02 171653Z
ACTION IO-13

INFO OCT-01 ISO-00 CIAE-00 CU-04 INR-07 NSAE-00 USIA-15
L-03 LOC-01 AF-08 ARA-10 EA-09 EUR-12 NEA-10 OIC-02
EB-07 /102 W

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R 171644Z DEC 76
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 8085

UNCLAS SECTION 01 OF 02 PARIS 37356

NESCO

E.O. 11652: N/A
TAGS: PORG, OCON, UNESCO, ECIN
SUBJECT: SECOND UNESCO MEETING ON TAXATION OF COPYRIGHT
ROYALTIES

1. THE SECOND COMMITTEE OF GOVERNMENTAL EXPERTS ON THE
TAXATION OF COPYRIGHT ROYALTIES REMITTED FROM ONE
COUNTRY TO ANOTHER WAS CONVENED AT UNESCO HOUSE ON
DECEMBER 8, 1976 UNDER THE CHAIRMANSHIP OF MR. JOAO F.
DA COSTA OF BRAZIL, AND ADJOURNED ON DECEMBER 16.

2. THE PURPOSES OF THE MEETING WERE TO REVIEW THE DRAFT
TEXT OF A MULTILATERAL CONVENTION PREPARED BY THE
SECRETARIAT AND TO CONSIDER THE ELABORATION OF A
BILATERAL MODEL CONVENTION. CONSIDERATION OF A
BILATERAL APPROACH WAS ADDED BY RESOLUTION 5.L6,
APPROVED BY THE GENERAL CONFERENCE OF UNESCO ON OCTOBER
28, 1976. THE US DELEGATION HAD PREPARED A DISCUSSION
DRAFT OF A POSSIBLE BILATERAL MODEL AND DELIVERED COPIES
TO THE SECRETARIAT AND TO MR. DA COSTA, WHO HAD BEEN
ACTIVE IN LAST YEAR'S MEETING, PRIOR TO THE OPENING OF
THE SESSIONS. SOME MEMBERS OF THE SECRETARIAT WERE
DISTRESSED, ARGUING THAT THE DEVELOPING COUNTRIES DON'T
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PAGE 02 PARIS 37356 01 OF 02 171653Z

WANT BILATERAL SOLUTIONS. BUT GIVEN THE RESOLUTION
(5.16) THEY AGREED TO PREPARE THE TRANSLATIONS AND
DISTRIBUTE IT. MR. DA COSTA'S REACTION ON RECEIVING THE
DRAFT WAS THAT IT MUST BE CONSIDERED, BUT THAT THERE MAY
NOT BE ENOUGH TIME IN THIS SESSION, IN WHICH CASE IT
WOULD BE ON THE AGENDA FOR THE THIRD MEETING.

3. MR. DA COSTA'S PRESUMPTION THAT THERE WOULD NECESSARILY BE A THIRD MEETING WAS REFLECTED IN HIS DIRECTION OF THE SESSIONS. THE MULTILATERAL DRAFT WAS REVIEWED ARTICLE BY ARTICLE, BUT AS A "FIRST READING" TO RECORD COMMENTS WHICH THE SECRETARIAT WOULD MAKE NOTE OF, AND NOT TO REACH DECISIONS. THUS FREED OF THE NEED TO RESOLVE DIFFERENCES, THE GROUP COMPLETED ITS REVIEW OF THE MULTILATERAL DRAFT ON FRIDAY. THE BILATERAL DRAFT WAS THEN READY FOR DISTRIBUTION AND IT WAS GIVEN A SIMILAR FIRST READING ON MONDAY MORNING.

4. MONDAY AFTERNOON AND TUESDAY MORNING WERE DEVOTED TO A DISCUSSION OF CONCLUSIONS. THE DEVELOPED (OECD) COUNTRIES REPRESENTED, EXCEPT SPAIN, CHALLENGED THE DESIRABILITY OF A THIRD SESSION AND SUPPORTED INSTEAD A GENERAL STATEMENT OF THE WORK DONE AND THE PRINCIPLES TO BE IMPLEMENTED WITH A RECOMMENDATION THAT COUNTRIES UNDERTAKE BILATERAL CONSULTATIONS IN WHICH THEY WOULD ADAPT THE EXISTING OECD MODEL TO REMEDY ANY DIFFICULTIES ENCOUNTERED WITH RESPECT TO COPYRIGHT ROYALTIES. THE DEVELOPING COUNTRIES AND THE CHAIRMAN OPPOSED THIS VIEW AS TOO NEGATIVE.

5. THE CHAIRMAN PROPOSED A COMPROMISE RESOLUTION FOR A THIRD MEETING TO PREPARE A "MULTILATERAL INSTRUMENT

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PAGE 01 PARIS 37356 02 OF 02 171655Z
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UNCLAS SECTION 02 OF 02 PARIS 37356

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RESTRICTED TO GENERAL PRINCIPLES" AND A BILATERAL MODEL

(WITH VARYING OPTIONS). THIS RESOLUTION WAS ADOPTED
WITHOUT A VOTE AFTER SOME DISCUSSION.

6. THE IDEA OF THE GENERAL PRINCIPLES - PLUS - BILATERAL
MODEL APPROACH HAD ORIGINALLY BEEN PROPOSED BY THE
CANADIAN AND USSR DELEGATES AS A POSSIBLE WAY OUT OF THE
IMPASSE, AND THE US DELEGATION HAD SUPPORTED IT AS
DESERVING FURTHER DISCUSSION. AT THAT TIME A WORKING
GROUP WAS EXPECTED TO BE ESTABLISHED WHICH MIGHT HAVE
CLARIFIED THE SCOPE AND LEGAL NATURE OF THE MULTILATERAL
COMPONENT. HOWEVER, AFTER THE ADOPTION OF THE RESOLUTION
ON TUESDAY MORNING THE MEETINGS WERE RECESSED, TO CONVENE
AGAIN ON THURSDAY AFTERNOON TO ADOPT THE REPORT OF THE
MEETINGS BY THE SECRETARIAT.

7. THE SECRETARIAT IS NOW CHARGED WITH PREPARING NEW
DRAFTS WHICH WILL BE CONSIDERED AT A THIRD MEETING IF THE
EXECUTIVE BOARD OF UNESCO APPROVES SUCH A MEETING. SINCE
NO DECISIONS HAVE YET BEEN MADE ON A DRAFT TEXT, THE WORK
OF A THIRD MEETING WILL INCLUDE REACHING AGREEMENT ON A
TEXT OF BOTH THE GENERAL PRINCIPLES AND THE BILATERAL
MODEL, DISCUSSION AND DRAFTING OF RESERVATIONS, AND
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PAGE 02 PARIS 37356 02 OF 02 171655Z

POSSIBLY THE PREPARATION OF A COMMENTARY. THIS SUGGESTS
THAT A FOURTH MEETING WOULD PROBABLY BE NECESSARY TO
COMPLETE THE PROJECT.
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